



**WEST VIRGINIA
SECRETARY OF STATE**

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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6/15/2017 3:43:26 PM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

**FORM 1 -- NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE
(Page 1)**

AGENCY **Education**
RULE TYPE **Legislative Exempt AMENDMENT TO EXISTING RULE Yes** TITLE-SERIES **126-086**
RULE NAME **Standards for School Nutrition (Policy 4321.1)**

CITE AUTHORITY **W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988)**

COMMENTS LIMITED TO
Written

DATE OF PUBLIC HEARING

LOCATION OF PUBLIC HEARING

DATE WRITTEN COMMENT PERIOD ENDS
Monday, July 17, 2017 4:00 PM

WRITTEN COMMENTS MAY BE MAILED TO
**Amanda Harrison, Executive Director
WVDE Office of Child Nutrition
Capitol Building 6, Room 248
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0330**

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
Mary C Tuckwiller -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 126-086



Rule Id: 16473



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**FORM 1 -- NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE
(Page 2)**

AGENCY	Education		
RULE TYPE	Legislative Exempt	AMENDMENT TO EXISTING RULE	Yes
TITLE-SERIES	Standards for School Nutrition (Policy 4321.1)		126-086

CITE AUTHORITY W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988)

PROVIDE A BRIEF SUMMARY OF YOUR PROPOSAL

Aligning Policy 4321.1 with Smart Snacks standards would put West Virginia in line with federal guidelines and therefore reduce the burden on counties to adhere to two sets of standards (both federal and state). The policy is being recommended to more adequately align with federal child nutrition standards, as well as put additional health and nutrition safeguards in place for students in West Virginia public schools.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
Mary C Tuckwiller -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)

AGENCY	Education		
RULE TYPE	Legislative Exempt	AMENDMENT TO EXISTING RULE	Yes
TITLE-SERIES			126-
RULE NAME	Standards for School Nutrition (Policy 4321.1)		086

CITE AUTHORITY W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988)

PRIMARY CONTACT

Office of Child Nutrition
West Virginia Department of Education
1900 Kanawha Blvd., East, Capitol Building 6
Charleston, West Virginia 25305

SECONDARY CONTACT

Virginia Harris
West Virginia Board of Education
1900 Kanawha Blvd., East, Capitol Building 6
Charleston, West Virginia 25305

Mary C Tuckwiller -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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CITE AUTHORITY W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988)

SUMMARIZE IN A CLEAR AND CONCISE MANNER WHAT IMPACT THIS MEASURE WILL HAVE ON COSTS AND REVENUES OF STATE GOVERNMENT.

Policy 4321.1 is a policy that governs child nutrition programs in West Virginia. The revisions proposed in this policy will not have any costs or revenues to state government.

Mary C Tuckwiller -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 2)

AGENCY **Education**
RULE TYPE **Legislative Exempt AMENDMENT TO EXISTING RULE Yes TITLE-SERIES 126-**
RULE NAME **Standards for School Nutrition (Policy 4321.1)** **086**

CITE AUTHORITY **W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988)**

FISCAL NOTE DETAIL -- SHOW OVER-ALL EFFECT IN ITEM 1 AND 2 AND, IN ITEM 3, GIVE AN EXPLANATION OF BREAKDOWN BY FISCAL YEAR, INCLUDING LONG-RANGE EFFECT.

Effect Of Proposal	Current Increase/Decrease (use ' - ')	Next Increase/Decrease (use ' - ')	Fiscal Year (Upon Full Implementation)
ESTIMATED TOTAL COST	0	0	0
PERSONAL SERVICES	0	0	0
CURRENT EXPENSES	0	0	0
REPAIRS AND ALTERATIONS	0	0	0
ASSETS	0	0	0
OTHER	0	0	0
ESTIMATED TOTAL REVENUES	0	0	0

Mary C Tuckwiller -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 3)

AGENCY	Education		
RULE TYPE	Legislative Exempt	AMENDMENT TO EXISTING RULE	Yes
RULE NAME	Standards for School Nutrition (Policy 4321.1)		TITLE-SERIES 126-086

CITE AUTHORITY W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988)

3. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT). PLEASE INCLUDE ANY INCREASE OR DECREASE IN FEES IN YOUR ESTIMATED TOTAL REVENUES.

The proposed revisions to Policy 4321.1 will not create an increase, or decrease, in fees or revenue.

Mary C Tuckwiller -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 4)

AGENCY	Education		
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RULE NAME	Standards for School Nutrition (Policy 4321.1)		

CITE AUTHORITY W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988)

PLEASE IDENTIFY ANY AREAS OF VAGUENESS, TECHNICAL DEFECTS, REASONS THE PROPOSED RULE WOULD NOT HAVE A FISCAL IMPACT, AND OR ANY SPECIAL ISSUES NOT CAPTURED ELSEWHERE ON THIS FORM.

The proposed revisions to Policy 4321.1 will not have any fiscal impact. This policy governs child nutrition programs in West Virginia and the proposed revisions are not in areas that would create additional costs, or revenue.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Mary C Tuckwiller -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 12 -- BRIEF SUMMARY AND STATEMENT OF CIRCUMSTANCES (Page 1)

AGENCY	Education		
RULE TYPE	Legislative Exempt	AMENDMENT TO EXISTING RULE	Yes TITLE-SERIES 126-086
RULE NAME	Standards for School Nutrition (Policy 4321.1)		

CITE AUTHORITY W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988)

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN RULE AND STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE.

The Child Nutrition and WIC Reauthorization Act of 2004 created many federal regulatory changes affecting public schools of the National School Lunch Program (NSLP) and School Breakfast Programs (SBP). Since that time, the Healthy, Hunger-Free Kids Act of 2010 was enacted to improve child nutrition. This federal legislation authorizes funding and sets policy for USDAs core child nutrition programs. Policy 4321.1 Standards for School Nutrition has not be thoroughly updated since 2008, and therefore a repeal and replacement of the policy is recommended to more adequately align with federal child nutrition standards, as well as put additional health and nutrition safeguards in place for students in West Virginia public schools. The purpose of Policy 4321.1 is to provide guidelines and best practices supporting good nutrition and food safety that will help schools take a comprehensive approach toward health and wellness in their schools.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes

Mary C Tuckwiller -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 126-086



Rule Id: 16473



Document: 49449

EXECUTIVE SUMMARY

WEST VIRGINIA DEPARTMENT OF EDUCATION

Policy Number and Title: Policy 4321.1 – Standards for School Nutrition

Background: The Child Nutrition and WIC Reauthorization Act of 2004 created many federal regulatory changes affecting public schools of the National School Lunch Program (NSLP) and School Breakfast Programs (SBP). Since that time, the Healthy, Hunger-Free Kids Act of 2010 was enacted to improve child nutrition. This federal legislation authorizes funding and sets policy for USDA’s core child nutrition programs. Policy 4321.1 – Standards for School Nutrition has not be thoroughly updated since 2008, and therefore a repeal and replacement of the policy is being recommended to more adequately align with federal child nutrition standards, as well as put additional health and nutrition safeguards in place for students in West Virginia public schools. The purpose of Policy 4321.1 is to provide guidelines and best practices supporting good nutrition and food safety that will help schools take a comprehensive approach toward health and wellness in their schools.

Proposals:

The revisions to Policy 4321.1 include general updates in to the overall policy Scope, Authority, and Purpose. These can be located in the following sections: §126-86-1 and §126-86-2. Relevant operational definitions have been updated and can be found in §126-86-3.

- The revisions to Policy 4321.1, Standards for School Nutrition are being recommended to align with federal Smart Snacks in School nutrition standards set by the USDA in terms of competitive foods that can be sold to students during the school day on the school campus, including food sold as fundraisers. See §126-86-5 for information on this proposed revision.
- The policy includes updated language to align certain elements of hiring standards with federal requirements of county child nutrition directors. For example, language that states an additional requirement of food safety training has been inserted to align with federal requirements. Professional development activities have been reduced from 15 hours to 12 hours as requirements for annual training of county child nutrition directors. This meets federal guidelines. In an attempt to offer counties additional flexibility in the education requirements of the position – language has been inserted that requires at least 6 semester hours of coursework of the required bachelor degree be in a related area such as nutrition, food, and/or food service management – or the completion of WVDE approved training as provided by the Office of Child Nutrition within 90 days of the start date. The validity period of the county child nutrition director has been extended from 1 year to 3 years, which will offer additional stability in the positon at the county level. These areas can all be found in §126-86-9.
- §126-86-11 reflects a special section related to special dietary considerations and food allergies. This was not a separate section in the former version of the policy. Language

has been added that states that local wellness policies are set and maintained at the local county level are a federal requirement and may contain stricter policies related to classroom celebrations. The policy adds language that restricts baked goods from home – but would allow for commercially prepared and/or packaged items to be allowed at school celebrations, if a school chooses to allow them. The items must have an identifiable nutritional label and/or complete ingredient list which would list all items and specify any potential allergens that may be within the product. This language is being inserted in an attempt to be less restrictive to counties, while considering food safety and student health concerns at the forefront of instances when outside foods would be provided, but not sold to students.

- §126-86-12 has been updated in terms of the accountability and compliance section which references the administrative review part that is a mandatory part of the Healthy and Hunger-Free Kids Act.
- §126-86-13 includes information on Feed to Achieve, specifically innovative breakfast delivery strategies that are required by West Virginia state law.
- §126-86-14 strengthens and expands the stance on using food/beverages as rewards and penalties. In other words, food could not be used as a reward or taken away as a punishment or penalty. Additionally, language has been included that would proactively prevent situations where students would be held accountable for outstanding meal debt.

Impact: *Describe the possible consequences of the changes to the policy of the adoption of a new policy including both intended and unintended possible consequences.*

Aligning with Smart Snacks standards would put West Virginia in line with federal guidelines and therefore reduce the burden on counties to adhere to two sets of standards (both federal and state). The policy is being recommended to more adequately align with federal child nutrition standards, as well as put additional health and nutrition safeguards in place for students in West Virginia public schools. The purpose of Policy 4321.1 is to provide guidelines and best practices supporting good nutrition and food safety that will help schools take a comprehensive approach toward health and wellness in their schools.

Policy 4321.1 Stakeholders

On April 24, 2017 – a Nutrition Advisory Council met with purposes of reviewing and providing meaningful discussion, comments, thoughts, and suggestions regarding the repeal and replacement of Policy 4321.1, Standards for School Nutrition.

Stakeholders Present:

• David Seay	Child Nutrition Director, Harrison County
• Tamera Gossard	Child Nutrition Director, Grant County
• Terri Jarvis	Community Mobilization, Bureau for Public Health (WVDHHR)
• Tom Williams	Deputy Superintendent, Kanawha County Schools
• Cathy Shaw	RD, PEIA Weight Management
• Tiffany Curran	Child Nutrition Director, Doddridge County
• Mary Cook	Cafeteria Manager, Cabell County
• Rhonda McCoy	Child Nutrition Director, Cabell County
• Elaine Bowen	Extension Specialist, WVU Extension Service
• Denise Ferris	Director, West Virginia Women Infants Children (WIC)
• Gary Price	Superintendent, Marion County
• Sharon Maynard	RD/LD, American Dairy Association, Mideast
• Renee Griffin	Child Nutrition Director, Ohio County
• Dr. Patricia Kelly	Marshall University Pediatrics
• Jeff Kelley	Principal, St. Albans High School
• Cathi Bradley	Principal, Kanawha City Elementary
• Jennifer Anderson	Parent
• Dr. Lee Pyles	WVU Pediatrics
• Robin Daquilante	Superintendent, Tyler County

WVDE, Office of Child Nutrition Staff Members Present at Meeting:

• Amanda Harrison	Director
• Natasha Jones	Coordinator
• Kevin Isaacs	Coordinator
• Celeste Peggs	Coordinator
• Travis Legg	Coordinator
• Linda St. Clair	Coordinator
• Andy Pense	Coordinator
• Keri Kennedy	Coordinator
• Cybele Boehm	Coordinator
• Samantha Snuffer-Reeves	Coordinator
• Tony Crago	Finance Manager

Other WVDE Staff Members Available at the Meeting:

• Robert Hagerman	Director, Office of Educator Effectiveness and Licensure
• Jodi Oliveto-Moore	Coordinator, Teacher Quality
• Mary Catherine Tuckwiller	Attorney, WVDE

126CSR86

TITLE 126
LEGISLATIVE RULE
BOARD OF EDUCATION
SERIES 86
STANDARDS FOR SCHOOL NUTRITION (4321.1)

§126-86-1. GENERAL.

1.1. Scope. -- This legislative rule establishes and affirms nutrition standards for child nutrition programs.

1.2. Authority. -- WV Constitution, Article XII, §2 and W. Va. Code §§18-2-5, 18-5D-1, 18-5D-2, 18-5D-3, 18-5D-4, §§10, 204, 210, 215, 220, 235 of the Healthy, Hunger-Free Kids Act (42 U.S.C. 1779, et seq.), W. Va. 126CSR136, West Virginia Board of Education Policy 5202, Minimum Requirements for the Licensure of Professional/Paraprofessional Personnel and Advanced Salary Classifications, and W. Va. 126CSR27, West Virginia Board of Education Policy 2422.8, Medication Administration (Policy 2422.8).

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Repeal of Former Rule. -- This legislative rule repeals and replaces W. Va. 126CSR86, West Virginia Board of Education (WVBE) Policy 4321.1, Standards for School Nutrition, filed August 15, 2014 and effective September 15, 2014.

§126-86-2. PURPOSE.

2.1. In West Virginia public schools, federally-funded school nutrition programs are available to provide nutritious food to all students. It is intended that these child nutrition programs remain the main source of foods and beverages available at school. These federal programs have specific requirements to ensure that adequate nutrients are offered to promote health. The Office of Child Nutrition (OCN) is the administering state agency in West Virginia for the United States Department of Agriculture's (USDA) Child Nutrition Programs. The West Virginia Department of Education (WVDE) will maintain a federal-state agreement with the USDA to operate child nutrition programs, through the OCN. Within the WVDE, the OCN will be tasked with the implementation, oversight, monitoring, provision of technical assistance, and related duties as they pertain to child nutrition programs. WVDE will abide by all current statutory regulations set forth by USDA and the federal government as it relates to the operation of federally-funded child nutrition programs. The purpose of this document is also to provide guidelines and best practices supporting good nutrition and food safety that will help schools take a comprehensive approach toward health and wellness in their school community.

§126-86-3. OPERATIONAL DEFINITIONS.

3.1. "Bottled Water" or "Water" is defined as plain natural water with or without carbonation and containing no additives.

3.2. "Beverages", and allowable limits – will be determined and defined by USDA Smart Snacks guidelines.

3.3. "Child Nutrition Director" is defined as the person responsible for administering, planning, directing, assessing, implementing, and evaluating child nutrition programs in order to meet the nutritional and educational needs of students, as they relate to the child nutrition program; may also be titled as "Food Service Director" or "School Nutrition Director".

3.4. "Competitive Foods" is defined as any food item that is sold in competition to the reimbursable school meal.

3.5. "Fluid Milk" is defined by the USDA as milk containing vitamins A and D at levels specified by the Food and Drug Administration. Schools or institutions must offer only pasteurized fluid types of fat free or low-fat (1%) milk. These milks must meet all state and local standards.

3.6. "Food Service Area" is defined as any area on school premises where reimbursable meals are served and/or consumed by students.

3.7. "School Day" for nutritional purposes, is defined by USDA guidelines as the period from midnight before, to thirty minutes after the end of the official school day.

3.8. "School Campus" is defined as a collection of buildings and grounds that belong to a given academic institution.

§126-86-4. NUTRITION STANDARDS FOR CHILD NUTRITION PROGRAMS.

4.1. Nutrition standards for federally-funded school and child nutrition programs are determined at the federal level. The WVDE is responsible for technical assistance and compliance monitoring related to program implementation at the local level.

§126-86-5. NUTRITION STANDARDS FOR COMPETITIVE FOODS AND BEVERAGES.

5.1. The Smart Snacks in School nutrition standards apply to any foods sold to students during the school day on the school campus, including foods sold as fundraisers. Foods that do not meet these federal standards cannot be sold to students on campus during the school day. Standards do not apply during non-school hours, on weekends, and at off-campus fundraising events, though local wellness policies may still apply. These standards apply to foods sold outside the National School Lunch Program (NSLP) and the School Breakfast Program (SBP).

5.2. Food and beverage contracts must comply with W. Va. 126CSR202, WVBE Policy 8200 Purchasing Policies and Procedures Manual for Local Educational Agencies.

5.3. Except for foods served in the school nutrition programs, no food or beverage shall be sold, served, or distributed to students in elementary schools from the time the first child arrives at school until twenty minutes after all students are served lunch.

5.4. Foods and beverages may not be sold, served, or distributed in competition with the federal child nutrition programs in the food service areas during the meal service periods, without prior approval from the county Child Nutrition Director.

§126-86-6. A La CARTE SALES.

6.1. To operate school-based nutrition programs as efficiently as possible, while maximizing federal reimbursement and minimizing the overall cost to the county, all meals must be priced and served as a unit. Only fluid milk and bottled water may be sold as a la carte items for breakfast and lunch at any grade level.

§126-86-7. AVAILABILITY OF DRINKING WATER.

7.1. Schools participating in the NSLP must make potable water available to children at no charge where meals are served during the meal service.

§126-86-8. ADEQUATE TIME FOR STUDENT MEAL CONSUMPTION.

8.1. Adequate time is necessary for student meal consumption. Minimum time allowance for student meal consumption will be ten minutes after breakfast has been received and twenty minutes after the student has received lunch.

§126-86-9. STAFFING.

9.1. School Nutrition Directors are those individuals directly responsible for the management of the day-to-day operations of school food service for all participating schools under the jurisdiction of the school food authority. Requirements for certification include the following:

9.1.a. Initial Temporary Authorization for School Nutrition Director. – The applicant for licensure must provide evidence of satisfying the following:

9.1.a.1. Degree. – At a minimum, hold a bachelor's degree and a minimum 2.5 GPA including 6 semester hours of coursework related to nutrition, food, and/or food service management or WVDE approved training as provided by the Office of Child Nutrition. The 6 semester hours or approved training must be completed within 90 days of the start date; AND

9.1.a.2. Additional requirement Food Safety Training. – The applicant for licensure must provide evidence of at least eight hours of food safety training obtained no more than five years prior to or within thirty days of start date.

9.1.a.3. Recommendation of the Superintendent. – Receive the recommendation of the county superintendent in the county in which the applicant is employed verifying that the applicant is the most qualified candidate for the position.

9.1.a.4. Validity Period. – The Temporary Authorization for School Nutrition Director shall be valid for 3 years.

9.1.b. Renewal of the Temporary Authorization for School Nutrition Director. – The applicant for licensure must provide evidence of satisfying the following:

9.1.b.1. Professional Development Activities. – completion of 12 clock hours of job-specific training each year related to child nutrition programs; AND

9.1.b.2. USDA Required Food Safety Training. -- School Nutrition Director must maintain a valid food safety certification while employed in the school meal program.

§126-86-10. LOCAL WELLNESS POLICY.

10.1. Each Local Educational Agency (LEA) must establish a local wellness policy for all schools participating in the NSLP and/or SBP under the jurisdiction of the LEA. The local school wellness policy is a federal requirement for each LEA to have a written plan that includes methods to promote student wellness, prevent and reduce childhood obesity, and provide assurance that school meals and other foods and beverages sold and otherwise made available on the school campus during the school day are consistent with applicable minimum federal standards. Every school or district participating in the NSLP and/or SBP will inform the public about the content and implementation of the local school wellness policy. At a minimum LEAs must permit participation by the general public and the school community (including parents, students, and representatives of the school food authorities, teachers of physical education, school health professionals, the school board and school administrators) in the wellness policy process.

§126-86-11. SPECIAL DIETARY CONSIDERATIONS AND FOOD ALLERGIES.

11.1. Special care and consideration must be taken regarding any and all scenarios where students with special dietary needs and food allergies are present.

11.2. Only a parent, guardian, or individual listed on a student emergency card may deliver outside foods and beverages to their own student at school. This guidance does not apply to food that is provided through the occasional classroom celebration and/or special event inclusive of all students in the class.

11.3. Local Wellness Policies that are set and maintained at the local county level are a federal requirement, and may contain stricter policies related to classroom celebrations. Outside foods and beverages that are commercially prepared and/or packaged are allowable at classroom celebrations and/or special events. These items must contain a nutrition label and/or a complete ingredient list, which identifies all items, and specifies any potential allergens that may be within the product. Homemade items or baked goods from home are not acceptable items for consumption for the general student population. Students with special dietary needs and food allergies should be considered at all times when outside foods are provided in a general setting. Schools should operate with the utmost care and caution when allowing outside foods to be provided to students and consider parent/guardian notification and/or approval for ingestion and specialized health care needs. For these events, the school must designate a staff member to approve the foods/beverages provided to ensure safety of the products for all students.

11.4. Students with disabilities – including, but not limited to chronic conditions such as asthma, insulin dependent diabetes, gastrointestinal disorders, cardiac disorders and known food allergies may

have an Individualized Health Care Plan (IHCP) by the certified school nurse, a Section 504 plan, or Individualized Education Program (IEP) along with a Medical Statement for Special Dietary Needs.

11.5. As directed in Policy 2422.8, all public schools are required to report any reactions resulting in the administration of epinephrine injections and administration of naloxone in their county. Other food safety concerns including contaminants such as drugs, chemicals, microorganisms and unknown substances, allergic reactions, medication incidents, etc. shall also be reported. The incidents shall be reported to the West Virginia Poison Center by calling 1-800-222-1222 after emergency medical services has transported the student or staff member to acute care. The notification should include the name of the student, the student's age and gender, date and the approximate time the incident occurred, symptoms observed, who administered the injection, the name of the school the student attends, a contact telephone number, if appropriate the rationale for administering the injection, the response to the epinephrine administration, the dose of epinephrine administered, and any other necessary elements to provide a complete report for the individual situation. The West Virginia Poison Center will provide the expertise during a potential concern, and will work collaboratively with schools and parents and provide data upon request to the public schools, local boards of education and annually to the State Superintendent of Schools.

§126-86-12. ACCOUNTABILITY AND COMPLIANCE.

12.1. As required by the Healthy and Hunger-Free Kids Act of 2010, the administrative review process in the NSLP and SBP has been established to utilize a unified accountability system designed to ensure that school food authorities offering school meals comply with program requirements. Additionally, this rule requires state agencies publicly disclose a summary of the administrative review results. These elements are expected to strengthen program integrity through a more robust, effective, and transparent process for monitoring school nutrition programs.

§126-86-13. FEED TO ACHIEVE – INNOVATIVE BREAKFAST DELIVERY STRATEGIES.

13.1. Each county board of education shall establish and operate school nutrition programs under which, at a minimum, a nutritious breakfast and lunch are made effectively available to all students enrolled in the schools of the county in accordance with the WVBE standards. All West Virginia public schools are required to adopt a delivery system approved by the OCN to ensure that all students are given adequate opportunity to eat breakfast. These approved systems shall include, but are not limited to: Grab-and-Go Breakfasts, Breakfast in the Classroom, or Breakfast After First Period; and collaborate with the OCN to develop strategies and methods to increase the percentage of students participating in the school breakfast and lunch nutrition programs.

§126-86-14. REWARDS AND PENALTIES.

14.1. Districts are prohibited from penalizing students due to unpaid and/or outstanding meal debt. This includes, but is not limited to: denial of meals, prohibition of participating in extra-curricular activities, the denial of participation in graduation and/or the refusal of transcript requests. Schools may not throw away a meal after it is has been served to a student or offer an alternative meal because the student either does not have the money to pay or the student's family owes money. All communication addressing financial matters should be directed to parents/guardians. Practices, including but not limited to, putting stickers or wristbands on children to remind parents/guardians to pay unpaid fees are

prohibited. Schools shall not identify or stigmatize students with meal debt or require them to complete chores or work in exchange for meals.

14.2. Food and beverages shall not be offered as a reward and/or used as a means of punishment or disciplinary action for any student during the school day.

§126-86-15. NUTRITION ADVISORY COUNCIL.

15.1. A broad-based Nutrition Advisory Council will remain established by WVDE for the purposes of keeping the WVBE apprised of current research findings in nutrition and assessing potential implications of findings for program development and implementation.

§126-86-16. SEVERABILITY.

16.1. If any provision of this rule or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this rule.

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Policy 4321.1-Standards for School Nutrition

Type of Rule: Legislative Interpretive Procedural

Agency: WV Department of Education

Address: 1900 Kanawha Blvd East

Charleston, WV 25305

Phone Number: 304-558-3396 Email: amanda.harrison@k12.wv.us

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

Policy 4321.1 is a policy that governs child nutrition programs in West Virginia. The revisions proposed in this policy will not have any costs or revenues to state government.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-" for decrease)	Next Increase/Decrease (use "-" for decrease)	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs & Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

Rule Title: Policy 4321.1-Standards for School Nutrition

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- 3. Explanation of above estimates (including long-range effect);**
Please include any increase or decrease in fees in your estimated total revenues.

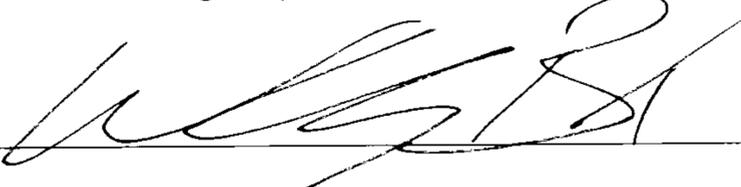
The proposed revisions to policy 4321.1 will not create an increase, or decrease, in fees or revenue.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

The proposed revisions policy 4321.1 will not have any fiscal impact. This policy governs child nutrition programs in West Virginia and the proposed revisions are not in areas that would create additional costs, or revenue.

Signature of Agency Head or Authorized Representative



Date

6/2/17